

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS, et al.,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of Health
and Human Services, et al.,

Defendants.

No. 5:22-CV-185-H

ORDER REQUIRING JURISDICTIONAL BRIEFING

Before the Court are the Defendants' Motion for Clarification (Dkt. No. 86), the Plaintiffs' Response (Dkt. No. 91), and the Defendants' Reply (Dkt. No. 92). During the Court's consideration of the motion, the defendants filed a Notice of Appeal (Dkt. No. 94) to challenge the Court's Memorandum Opinion and Order granting a preliminary injunction (Dkt. No. 73).


Ordinarily, "[t]he filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982); *see also Coastal Corp. v. Tex. E. Corp.*, 869 F.2d 817, 820 (5th Cir. 1989) (holding that "the powers of the district court over an injunction pending appeal" are limited to "maintaining the status quo"); *Providence Title Co. v. Truly Title, Inc.*, No. 4:21-CV-147-SDJ, 2021 WL 5003273, at *5 (E.D. Tex. Oct. 28, 2021) (Jordan, J.) (concluding that the court lacked jurisdiction to vacate or modify a preliminary injunction pending appeal).

At the same time, Federal Rule of Appellate Procedure 4 prevents a notice of appeal from taking effect until certain post-judgment motions are resolved by the district court.

Fed. R. App. P. 4(a)(4)(B)(i); *see also* Fed. R. Civ. P. 54(a) (defining “judgment” to include “any order from which an appeal lies”); *Birdsong v. Wrotenbery*, 901 F.2d 1270, 1272 (5th Cir. 1990) (treating a motion to clarify an injunction as a Rule 59(e) motion); *Coventry Cap. US LLC v. EEA Life Settlements, Inc.*, 357 F. Supp. 3d 294 (S.D.N.Y. 2019).

The parties are ordered to brief whether the Court has jurisdiction to resolve the motion. The parties’ briefs shall be submitted simultaneously at 3:00 PM on November 10, 2022.

So ordered on October 28, 2022.



JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE